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UNITED STATE DISTRICT COURT  
DISTRICT OF NEVADA

KENNETH COUNTS,

Plaintiff,

vs.

WESTROCK PACKAGING SYSTEMS, LLC;  
DOES I – X, and ROE CORPORATIONS XI-  
XX, inclusive

Defendant.

Case No. 2:23-CV-01256-JAD-BNW

**STIPULATION AND ORDER TO MODIFY THE DISCOVERY PLAN AND  
SCHEDULING ORDER TO EXTEND DISCOVERY PLAN DEADLINES  
(SECOND REQUEST)**

Plaintiff Kenneth Counts and Defendant Westrock Packaging Systems, LLC, by  
and through their respective counsel, and pursuant to Local Rule 26-4, and via this  
Second Request stipulate to modify their discovery plan as follows:

1. Plaintiff filed his Complaint on June 29, 2023 in the Eighth Judicial District  
Court, Clark County, Nevada
2. Defendant answered on August 3, 2023.
3. Defendant removed the matter to this court on August 11, 2023.

STIPULATION AND ORDER TO MODIFY THE DISCOVERY PLAN AND SCHEDULING ORDER

4. Counsel for the parties conducted a Fed. R. Civ. P. 26(f) conference on August 23, 2023. The parties submitted their Joint Discovery Plan and Scheduling Order to the Court on September 7, 2023. The Court approved the parties' request for Special Scheduling Review. [ECF 8] The discovery plan was approved by United States Magistrate Judge Brenda Weksler on September 12, 2023.

5. The parties prepared and filed a Stipulation and Order to Modify the Discovery Plan and Scheduling Order (First Request) on February 9, 2024. The Court granted the Stipulation and Order. [ECF 20]

Discovery Cut-Off: 08/19/2024

Last Day to Amend Pleadings: 05/20/2024

Expert Disclosure Deadline: 06/19/2024

Rebuttal Expert Disclosure: 07/22/2024

Dispositive Motions Deadline: 09/17/2024

Pre-Trial Order: 10/17/2024

The first amended discovery plan was approved by United States Magistrate Judge Brenda Weksler on February 12, 2024.

5. In compliance with Local Rule 26-4, the parties provide the following information regarding the discovery status:

**(a) Discovery Completed pursuant to Fed. R. Civ. P. 26(a):**

**Defendants:**

Defendant's Initial Disclosures 09/06/2023

Defendants Noticed the Deposition of the Custodian of Records for Truckland Inc. 09/25/2023

Defendant's Requests for Production of Document 09/26/2023

Defendant's Interrogatories 09/26/2023

Defendant's First Supplement Disclosures 10/24/2023

Defendant's Second Supplement Disclosures 11/16/2023

Defendant's Third Supplement Disclosures 11/30/2023

1	Defendant's Fourth Supplement Disclosures	12/07/2023
2	Defendant's Fifth Supplement Disclosures	12/21/2023
3	Defendant's Sixth Supplement Disclosures	02/02/2024
4	Defendant's Seventh Supplement Disclosures	03/11/2024
5	Defendant Answered Written Discovery	03/11/2024
6	Defendants Noticed the Deposition of Plaintiff	05/21/2024

7 **Plaintiffs:**

8	Plaintiff's Initial Disclosures	08/31/2023
9	Plaintiff's Notice of Deposition of Westrock Packaging	09/27/2023
10	System's Rule 30(b)(6) witness	
11	Plaintiff's First Supplement Disclosures	11/07/2023
12	Plaintiff Answered Written Discovery	11/29/2023
13	Plaintiff's Interrogatories and Requests for Production of	02/01/2024
14	Documents to Westrock Packaging System	
15	Plaintiff Noticed the Deposition of Desman Miranda	05/14/2024

16 **(b) Discovery that remains to be completed:**

- 17 • Continue to pursue copies of medical records via authorization.
- 18 Defendant needs to obtain these medical records from of Plaintiff's
- 19 medical providers regarding Plaintiff's current treatment as well as medical
- 20 record of any relevant past or subsequent dates of loss.
- 21 • Continue to exchange written discovery between the parties.
- 22 • Conduct depositions of parties and witnesses.
- 23 • The parties need to designate experts and rebuttal experts and exchange
- 24 designations of experts and their reports.
- 25 • The parties need to conduct the depositions of Plaintiff's experts and
- 26 Defendant's experts.

**(c) Reasons why discovery was not completed:**

The parties have immediately taken steps to move discovery forward. However, Plaintiff Kenneth Counts was involved in a serious accident on May 3, 2024. He was hospitalized and remained in the Truama unit for several days. He may need additional surgeries to recover. He remains in the hospital at this time. Upon discharge from the hospital, it is anticipated that he will be moved to a rehabilitation facility where he will have to undergo extensive therapy.

**(d) Proposed Schedule:**

The parties propose a 75 day extension to all discovery deadlines. Without this extension, the experts will have incomplete evidence on which to base their opinions.

Those proposed extended dates will be:

Discovery Cut-Off:	11/04/2024
Last Day to Amend Pleadings:	08/05/2024
Expert Disclosure Deadline:	09/02/2024
Rebuttal Expert Disclosure:	10/07/2024
Dispositive Motions Deadline:	12/02/2024
Pre-Trial Order:	12/31/2024

(If dispositive motions are filed, the deadline for the filing of the joint pre-trial order will be suspended until 30 days after decision on the dispositive motions or further court order.)

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**CONCLUSION**

For the foregoing reasons, the parties herein respectfully request this Honorable Court to modify the Discovery Plan and Scheduling Order to extend all discovery deadlines.

Approved as to form and content:

Dated this 13<sup>th</sup> day of May, 2024.

Dated this 13<sup>th</sup> day of May, 2024.

Schuetze, McGaha, Turner & Ferris, PLLC

Bauman Loewe Witt & Maxwell, LLC

*/s/ William W. McGaha*

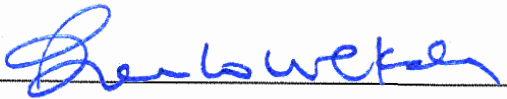
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**ORDER**

IT IS SO ORDERED.

  
UNITED STATES MAGISTRATE JUDGE

DATED: May 15, 2024